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APPLICATION NO.	F	ILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
09/521,524		03/08/2000	Beverly L. Davidson	875.025US1 1091		
21186	7590	10/21/2002				
SCHWEG	MAN, LU	NDBERG, WOE	SSNER & KLUTH, P.A.	EXAMINER FOLEY, SHANON A		
P.O. BOX 2 MINNEAPO		55402				
				ART UNIT	PAPER NUMBER	
				1648 DATE MAILED: 10/21/2002	21	

Please find below and/or attached an Office communication concerning this application or proceeding.

•	Application No.	Applicant(s)					
Advisory Action	09/521,524	DAVIDSON ET AL.	<u>.                                    </u>				
Autiony Aution	Examiner	Art Unit					
·	Shanon Foley	1648					
The MAILING DATE of this communication appears on the cover sheet with the correspondence address							
THE REPLY FILED 23 September 2002 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.							
	PLY [check either a) or b)]	٠					
a) The period for reply expires 3 months from the mailing date of b)  The period for reply expires on: (1) the mailing date of this Adv event, however, will the statutory period for reply expire later th ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS 706.07(f).  Extensions of time may be obtained under 37 CFR 1.136(a). The danave been filed is the date for purposes of determining the period of extensions of the statutory period of extensions of the statutory of the shortened (b) above, if checked. Any reply received by the Office later than three most parent patent term adjustment. See 37 CFR 1.704(b).	risory Action, or (2) the date set forth in the an SIX MONTHS from the mailing date of FILED WITHIN TWO MONTHS OF THE te on which the petition under 37 CFR 1.1 sion and the corresponding amount of the I statutory period for reply originally set in	f the final rejection. E FINAL REJECTION. S  136(a) and the appropriate exitee. The appropriate exite final Office action; or	See MPEP e extension fee tension fee under (2) as set forth in				
A Notice of Appeal was filed on Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.							
2. The proposed amendment(s) will not be entered because:							
(a) Methey raise new issues that would require further consideration and/or search (see NOTE below);							
(b) they raise the issue of new matter (see Note below);							
(c) ☑ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or							
(d) Methey present additional claims without canceling a corresponding number of finally rejected claims.							
NOTE: <u>See Continuation Sheet</u> .							
<ol><li>Applicant's reply has overcome the following reject</li></ol>	tion(s):						
4. Newly proposed or amended claim(s) would canceling the non-allowable claim(s).	be allowable if submitted in a s	separate, timely filed	d amendment				
. The a) affidavit, b) exhibit, or c) request for reconsideration has been considered but does NOT place the application in condition for allowance because:							
6. The affidavit or exhibit will NOT be considered be raised by the Examiner in the final rejection.	cause it is not directed SOLELY	to issues which we	ere newly				
7. For purposes of Appeal, the proposed amendment explanation of how the new or amended claims w			and an				
The status of the claim(s) is (or will be) as follows:							
Claim(s) allowed:							
Claim(s) objected to:							
Claim(s) rejected: 2-8 and 10-25.	• .						
Claim(s) withdrawn from consideration:							
3.☐ The proposed drawing correction filed on is a)☐ approved or b)☐ disapproved by the Examiner.							
9. Note the attached Information Disclosure Statement(s)( PTO-1449) Paper No(s)							
10. Other:							
		<u> </u>					

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Continuation of 2. NOTE: The proposed amendment to the claims would require new consideration under 35 USC 112 because the independent claims recite closed claim language "consisting of" certain components, but the dependent claims recite that the compositions "further consist of". It is not clear what the compositions actually contain. Also, claim 16 still recites the negative limitatio "lacks a loxP sequence" that is unsupported by the original disclosure. The proposed amendment also does not overcome the prior art rejection because it is not clear what the instant products consist of and do not exclude the cre-lox components of Aoki et al. Also, Aoki et al. teaches generation of non-infectious adenovirus with a limited number of overlapping map units 9.2 -16.1 in the shuttle plasmid an the cosmid. Therefore, homologous recombination would occur in the system of Aoki et al. without the use of cre-lox since it is well established that overlapping adenoviral map units on separate molecules results in homologous recombination, see the teachings of Chinnadurai et al. The skilled artisan would have been motivated to incorporate the overlapping map units of Aoki et al. into the method of Chinnadurai et al. to generate non-infectious adenovirus in a time-efficient manner. The skilled artisan would have had a reasonable expectation for producing the claimed invention because both references teach overlapping map units to generate adenovirus.

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